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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

NGUYEN, DAVID Q

ART UNIT PAPER NUMBER

2681

DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/693,128

Applicant(s)

LLEWELLYN ET AL.

Examiner

David Q Nguyen

Art Unit

2681

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.Claim(s) objected to: None.Claim(s) rejected: 1-3 and 5-13.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

Continuation of 5. does NOT place the application in condition for allowance because: Examiner reconsiders the Response to final office action mailed April 28, 2004 filed June 28, 2004. However, all the reference used to reject claims of the application are still stand because they meet all of the limitations recited in the claims.

Advisory Action/Response to Arguments.

Applicant's arguments filed 06/28/04 have been fully considered but they are not persuasive

In response to Applicant's Remark on page 3, Applicants argue: "It is therefore clear that the system Chu does not and cannot have "a common modulated radio frequency carrier signal used in both the distribution network and over a said wireless connection." Examiner respectfully disagrees because the system of Chu operates at different frequencies for different applications (for example, 900 MHz or 2.45 GHz for wireless devices; 18 GHz for WLAN products) (see col. 4, lines 54-65). The Chu's reference mentions that repeaters 100-103 may use the 900 Mhz, 2.45 GHz or higher frequency bands for communications with wireless end user devices 50-53, which means that the user devices 50-53 communicate with the network using frequency 900 MHz or 2.45 Ghz. As we know that in the wireless mobile telecommunication, mobile devices communicates with the network using frequency 900 MHz or PCS band (1900 MHz). It is apparent that the system Chu does have "a common modulated radio frequency carrier signal used in both the distribution network and over a said wireless connection, which means that the common modulated radio frequency carrier signal may be 900 MHz or 2.45 Ghz. In response to applicant's argument on page 5 that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Without this translation in frequency the system of Chu would not operate at 38 GHz, so the frequency translation is essential even now for the system to work and this would have even more necessary back in 1995 when the system of Chu was developed) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In response to Applicant's Remark on page 5, Applicants argue: " Rypinski additionally does not disclose use of a common modulated frequency carrier signal in both the distribution network and over a said wireless connection to communicate said data between a said subscriber equipment and the base station"

Examiner respectfully disagrees because the system of Rypinski does disclose use of a common modulated frequency carrier signal in both the distribution network and over a said wireless connection to communicate said data between a said subscriber equipment and the base station (see abstract and fig. 1 and fig. 4)

In response to Applicant's Remark on page 6, Applicants argue: "Knop does not describe a wireless communication system and does not teach any of the features of claim 1."

Examiner respectfully disagrees because Knop describes a signal pathway is a coaxial cable used in a wireless network (see col. 5, lines 1-10). The system of Chu in view of Knop clearly teaches a wireless communication system and does teach any of the features of claim 1..

DN

07/02/04


ERIKA GARY
PATENT EXAMINER